

REMARKS

Upon entry of the present amendment, claims 1, 2, 4, 8, 10, 11 and 12 will have been amended while claims 14-20 will have been submitted for consideration by the Examiner.

In view of the herein contained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection together with an indication of the allowability of all the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

Initially, Applicants wish to respectfully thank the Examiner for acknowledging their Claim for Foreign Priority under 35 U.S.C. § 119 as well as confirming receipt of the certified copies of the foreign priority documents upon which the claim is based. The certified copies of the foreign priority documents were submitted and received in parent Application No. 09/407,855.

Applicants wish to further respectfully thank the Examiner for considering the documents cited in the Information Disclosure Statement filed in the present application on April 22, 2004 by the return of the signed and initialed PTO-1449 Form accompanying the above-noted Information Disclosure Statement.

In the present application, on June 22, 2004, Applicants filed a Petition to change the order of the inventors pursuant to 37 C.F.R. § 1.182. Together with the above-noted Petition, Applicants filed the requisite fee. Accordingly, Applicants respectfully thank the Examiner for effecting the change in the order of the inventors requested in the above-noted Petition, as evidenced by the revised Official Filing Receipt mailed by the U.S. Patent and Trademark Office on July 7, 2004.

In the outstanding Official Action, the Examiner rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by PADOWICZ (U.S. Patent No. 3,858,324). In setting forth the rejection, the Examiner asserted that the limitation of the preamble has been given no patentable weight. Applicants respectfully submit that the Examiner's interpretation of the significance of the preamble and features recited therein is inappropriate.

Nevertheless, in order to expedite the allowance of the present application and particularly because claim 1 was the only claim rejected in the present application, Applicants have revised claim 1 to define the target for photogrammetric analytic measurement in the body of the claim. The above-noted change to claim 1 is respectfully submitted not to narrow the scope of the claim and thus should give rise to no file wrapper or prosecution history estoppel. Because the limitation was previously contained in the claim, it is respectfully submitted that the scope of the claim remains the same. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the outstanding rejection of claim 1.

In the outstanding Official Action, the Examiner indicated claims 2-13 are objected to and further indicated that they contained allowable subject matter. In particular, the Examiner indicated that these claims were objected to for being dependent upon a rejected base claim but would be allowable if rewritten into independent form including all the limitations of the base claim and any intervening claim.

In accordance with the Examiner's indication, and without in any manner acquiescing in the propriety of the Examiner's rejection of claim 1, Applicants have

rewritten claims 2 and 11 into independent form. Accordingly, at least in accordance with the Examiner's indication, claims 2-13 are now submitted to be clearly in condition for allowance.

As noted above, Applicants respectfully traverse the Examiner's rejection of claim 1 as unpatentable over PADOWICZ. Applicants respectfully submit that the teachings of PADOWICZ are clearly irrelevant with respect to the features of the present application. In particular, PADOWICZ does not relate to a target for photogrammetric analytic measurement which is the subject matter of the present application, but rather to a pantograph.

Moreover, in setting forth the rejection, the Examiner asserted that non-reflecting members are considered to be articulations (19, 30, 23, 21 of Fig. 1 and column 2, lines 20-26, 32-35 and 45-59). It is respectfully submitted that there is no disclosure in PADOWICZ regarding non-reflecting members that are respectively attachable to and removable from the at least three standard points. Accordingly, for this additional reason, it is respectfully submitted that the Examiner's rejection of claim 1 as unpatentable over PADOWICZ is inappropriate and incorrect.

Accordingly, for each of the above reasons and certainly for all of the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of any claim in the present application as anticipated by or as unpatentable over PADOWICZ.

By the present Response, Applicants have amended several additional dependent claims to improve the language thereof without changing the scope. In particular, these claims have been amended to improve the idiom and syntax of the

P24705.A04

claim language. These amendments were not made in view of any prior art because these claims were not rejected over any prior art.

By the present Response, Applicants have submitted several additional claims for consideration by the Examiner. These claims are submitted to be patentable both based on their own recitations, in the claimed combinations, as well as based upon their dependence from a shown to be allowable independent claim. Accordingly, examination and an indication of the allowability of all of these claims is respectfully requested in due course.

Applicants note that in the Official Action, the Examiner set forth reasons for the indication of allowable subject matter with respect to claims 2-13. In this regard, while Applicants do not disagree with the particular features highlighted in the Examiner's indication, Applicants further wish to point out that each of the claims in the present application defines a particular combination of features and that the patentability of each such claim is based on a particular combination of features recited therein. Accordingly, the reasons for indication of allowable subject matter should not be limited to those particular features highlighted by the Examiner.

Accordingly, Applicants respectfully request reconsideration of the outstanding rejection of claim 1, consideration of newly submitted claims 14-20, and an indication of the allowability of all the claims 1-20 pending in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

### SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so. Applicants have revised several of the claims merely to improve the language thereof and without narrowing the scope of the claims.

Applicants have also rewritten two objected-to claims into independent form in order to expedite the allowance of the present application but without acquiescing in the propriety of the asserted rejection. Applicants have further traversed the Examiner's rejection and pointed out the shortcomings and deficiencies thereof. Applicants have discussed the language of Applicants claims and have pointed out the deficiencies of the reference with respect thereto.

Applicants have submitted several additional claims for consideration by the Examiner and with respect to these claims have submitted a basis for the patentability thereof. Accordingly, Applicants have provided a clear evidentiary basis supporting the patentability of all the claims in the present application and respectfully request an indication to such effect in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

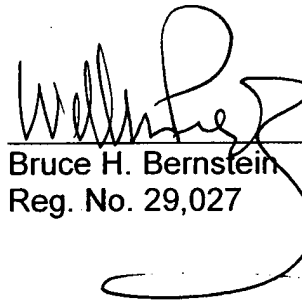
Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. §1.136(a), is herewith made in an amount equal to the time

P24705.A04

period required to render this response timely and/or complete. The Commissioner is authorized to charge any required extension of time fee under 37 C.F.R. §1.17 to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Masami SHIRAI et al.

A handwritten signature in black ink, appearing to read "William Pieprz", is written over a horizontal line. Below the line, the name "Bruce H. Bernstein" and "Reg. No. 29,027" are printed.

William Pieprz  
Reg. No. 33,630

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